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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,083	10/10/2001	John S. Hendricks	SEDN/5205	5151

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SHREWSBURY, NJ 07702

EXAMINER
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SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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03/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/973,083	<b>Applicant(s)</b> HENDRICKS ET AL.	
	<b>Examiner</b> Justin E. Shepard	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 61-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 1/16/09 have been fully considered but they are not persuasive.

Page 7, paragraph beginning with "Thus, even":

The applicant argues that the combination of McKenna and Wachob would not teach a system wherein the viewer was allowed to review which group they are assigned to. McKenna teaches a system wherein the user is assigned to a demographic group (column 10, line 64 to column 11, line 4), which allows the system to target advertisements to a particular demographic group by changing the channel of the STB at the time that a commercial is broadcast (column 10, lines 43-60). McKenna does not disclose that the viewer could review and override this group assignment. Wachob teaches a system wherein a user would be require to input data relating to their demographic before any other commands to the device could be entered (column 5, lines 61-64). After the demographic information has been entered, the device will insert targeted ads at the appropriate time (figure 3). Wachob also teaches that multiple people's demographic groups can exist on the STB simultaneously, so as to facilitate multiple people watching TV together (column 6, lines 1-10). There is a "delete" key for removing a group assignment when one of the viewers leaves the viewing area. It is the interpretation of the examiner that by being able to delete on of the current demographic groups off of the STB, that the users are able to view which demographic groups are currently logged in on the STB. Without this reviewing ability, the delete key

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would randomly delete profiles from the device, causing the wrong ads to be presented to the viewer who remained in the viewing area.

Page 7, paragraph beginning with "Moreover":

The applicant argues that the combination of McKenna and Wachob do not teach allowing a viewer to modify or override any of the remotely assigned group assignment rules associate with the viewer's set top terminal. If a husband was logged into the device using his pre-assigned code (column 5, lines 37-60), but realized that as his wife's birthday was coming up and decided that he would like to see targeted advertisements to get an idea for a present. The husband could delete his profile off of the STB (column 6, lines 1-10) and then press the adult female button on the remote to get the commercials targeted for that demographic. The examiner is interpreting this possible scenario as overriding/modifying the group assignment on the box as the husband would not be assigned to the adult female profile by the headend.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Wachob.

Referring to claim 61, McKenna discloses a system, comprising:

a processor located remotely from a viewer's set top terminal at an operations center (figure 1, parts 17 and 24) for generating a plurality or group assignment rules based on viewing information (column 7, lines 18-19; column 11, lines 27-32)

a switching engine for receiving a plurality of group assignment rules, wherein said plurality of group assignment rules associate a plurality of set top terminals to a group based on a target category (column 10, lines 64-68; column 11, lines 1-4) and a switching plan (column 11, lines 11-13) and for switching at least one program channel to at least one feeder channel according to the switching plan (column 11, lines 21-26), the feeder channel being an ancillary channel for providing a plurality of advertisements based on a group assignment in the plurality of group assignment rules (column 10, lines 50-60); and a data collection engine for collecting information including advertisements watched data (column 7, lines 18-19; Note: as the system watches the channel that the system is tuned to, it would keep track of when the system tuned into a substitute channel) and any changes to the plurality of group assignment rules for use in future advertising targeting (column 11, lines 27-32).

McKenna does not disclose a system comprising a group assignment rules processor engine for managing the group assignment rules associated with a viewer's set top terminal by allowing a viewer to review which group a viewers set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to

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locally modify or override of any of the remotely assigned group assignment rules associated with a viewer's set top terminal.

In an analogous art, Wachob teaches a system comprising a group assignment rules processor engine for managing the group assignment rules associated with a viewer's set top terminal by allowing a viewer to review which group a viewers set top terminal is assigned to by said processor (column 5, lines 37-60; figure 2) according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to locally modify or override of any of the remotely assigned group assignment rules associated with a viewer's set top terminal (column 5, lines 37-60; figure 2).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the rules managing and overriding taught by Wachob to the system disclosed by McKenna. The motivation would have been to enable the user to only see commercials that appeal to his/her demographic (Wachob: column 5, lines 37-60).

Claim 64 is rejected on the same grounds as claim 61.

Referring to claim 62, McKenna discloses a system of claim 61, further comprising: a memory for storing the plurality of group assignment rules (column 11, lines 11-13) and the advertisements (figure 1, parts 13 and 14).

Claim 65 is rejected on the same grounds as claim 62.

Referring to claim 63, McKenna discloses a system of claim 61, wherein the data collection engine includes an automatic data collection module (column 7, lines 18-19) and a manual data collection module (column 7, lines 28-38).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2424

JS